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EXAMINER

SALCE, JASON P

ART UNIT PAPER NUMBER

2611

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/321,939

**Applicant(s)**

CARR, WAYNE J.

**Examiner**

Jason P Salce

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-18 and 29 is/are rejected.
- 7) ☒ Claim(s) 7 and 24-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In view of the arguments expressed in the Appeal Brief filed on 11/8/2004, PROSECUTION IS HEREBY REOPENED. A rebuttal to the Reply Brief, Restriction, Interview Summary and reasons for a defective brief are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Applicant's specification at Page 7, Lines 6-10 state that the secondary link 20 (separate delivery mechanism) can be a transport stream, instead of a separate physical delivery mechanism. In regards to this teaching in Applicant's specification, the examiner has applied Thomas reference in order to reject the independent claims. Note that Thomas clearly teaches delivering data in separate transports streams (see Column 1, Lines 60-65 and Column 3, Lines 50-64 and Column 8, Lines 55-65 and Figure 9) and that the independent claims recitation of the "separate delivery mechanism" is broad and can also read on elementary streams in an MPEG transport stream (which Thomas also teaches).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8 and 10-12 rejected under 35 U.S.C. 102(e) as being clearly anticipated by Thomas (U.S. Patent No. 6,502,243).

Referring to claim 8, Thomas discloses a receiver adapted to tune to an audio/video portion over a transport medium (see the DTV receiver in Figure 12 and Column 9, Lines 13-15).

Thomas also discloses a device adapted to receive announcement data associated with the tuned audio/video content directed to a first location and to receive a special announcement directed to the first location (see the records field in Figure 5 and Column 6, Lines 3-6, Figure 12 and Column 5, Lines 49-57 for all broadcasts being received by a DTV receiver, therefore the system inherently expects the announcements at a first location (the receiver) and note that the DTV receiver contains a memory and cache for storing the enhancement data (that includes announcements) and the special indication (see cache in the DTV receiver in Figure 12 and Column 3, Lines 53-62)).

Thomas also discloses that the special announcement indicating availability of the announcement data associated with the tuned audio/video program (see Figures 9 and 10 and Column 8, Lines 54-67 and Column 9, Lines 1-21 for the translation record directing the receiver to tune to the proper channel to retrieve the proper data) and the announcement data associated with the tuned audio/video content indicating enhancement data is being transmitted (note that in Figure 5 that the records field indicates the location of a resource within a broadcast (see Column 6, Lines 5-6), therefore informing the system that the enhancement data is being transmitted within a specific broadcast).

Thomas also discloses a controller adapted to redirect the announcement data to a second location in response to the special announcement (see Figure 5 and Column 8, Lines 54-65 for the translation field allowing a receiver to be directed (or redirected) to a specific elementary stream within a transport stream (or transport streams T1 and T2)).

Referring to claim 10, Thomas discloses receiving the television content associated with multiple television channels over a transport medium (see Figure 12 and Column 9, Lines 58-61 and Column 1, Lines 17-21 for receiving broadcast data (television content) from multiple sources (i.e. television channels)).

Thomas also discloses receiving enhancement data associated with the multiple television channels (see the "records" field and logical name fields in the table of Figure 5, which is transmitted to the viewer's receiver at Column 6, Lines 61-63) on a separate delivery mechanism (see Column 5, Lines 46-49 and note that the term "separate

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delivery mechanism" is broad and can be interpreted at a separate physical network path, a separate transport stream, or even a separate set of data defined within an elementary stream or a specific set of PIDs), the enhancement data including announcements in the enhancement data (see the records field in Figure 5 and Column 6, Lines 3-6) being expected at a first location (see Figure 12 and Column 5, Lines 49-57 for all broadcasts being received by a DTV receiver, therefore the system inherently expects the announcements at a first location (the receiver)), and indicating at least some of the enhancement data is being transmitted (note that in Figure 5 that the records field indicates the location of a resource within a broadcast (see Column 6, Lines 5-6), therefore informing the system that the enhancement data is being transmitted within a specific broadcast).

Thomas also discloses receiving one or more special indications at the first location (see the translation field in Figure 5 and Column 6, Lines 25-42).

Thomas also discloses tuning to one of the audio/video programs (see Column 9, Lines 13-15 for tuning to transport stream T1).

Thomas also discloses identifying a location of the announcement of an ancillary information stream associated with the tuned audio/video program based on the predetermined indication (see Column 9, Lines 15-21 for locating a URL in transport stream T1 according to the special indication).

Referring to claim 11, see the rejection of claim 10.

Referring to claim 12, Thomas discloses multicasting the enhancement data and predetermined indications (in the translation table) to a plurality of receivers (see

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Column 5, Lines 49-52 for a DTV broadcast server transmitting the translation table and Column 6, Lines 9-24 for the translation table being received by multiple DTV receivers). The examiner notes that a DTV broadcast server is within a television transmission environment, which provides a point to multipoint network connection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-6, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Patent No. 6,502,243) in view of Field et al. (U.S. Patent No. 6,018,764).

Referring to claim 1, Thomas discloses receiving the television content associated with multiple television channels over a transport medium (see Figure 12 and Column 9, Lines 58-61 and Column 1, Lines 17-21 for receiving broadcast data (television content) from multiple sources (i.e. television channels)).

Thomas also discloses receiving enhancement data associated with the multiple television channels (see the "records" field and logical name fields in the table of Figure 5, which is transmitted to the viewer's receiver at Column 6, Lines 61-63) on a separate delivery mechanism (see Column 5, Lines 46-49 and note that the term "separate delivery mechanism" is broad and can be interpreted at a separate physical network

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path, a separate transport stream, or even a separate set of data defined within an elementary stream or a specific set of PIDs), the enhancement data including announcements in the enhancement data (see the records field in Figure 5 and Column 6, Lines 3-6) being expected at a first location (see Figure 12 and Column 5, Lines 49-57 for all broadcasts being received by a DTV receiver, therefore the system inherently expects the announcements at a first location (the receiver)), and indicating at least some of the enhancement data is being transmitted (note that in Figure 5 that the records field indicates the location of a resource within a broadcast (see Column 6, Lines 5-6), therefore informing the system that the enhancement data is being transmitted within a specific broadcast).

Thomas also discloses receiving one or more special indications at the first location (see the translation field in Figure 5 and Column 6, Lines 25-42) indicating that enhancement data is available on the separate delivery mechanism (see Figures 9 and 10 and Column 8, Lines 54-67 and Column 9, Lines 1-21 for the translation record directing the receiver to tune to the proper channel to retrieve the proper data), the one or more special indications identifying locations of the announcements associated with the multiple television channels (Figure 10 for the locations of the announcements being located in the translation field and Figure 9 and Column 8, Lines 54-67 and Column 9, Lines 1-21 for directing the receiver to tune to another channel according to the data in the translation field). Therefore, the separate delivery mechanism is the different channels that the data is received and the translation field defines the locations of the announcements.



Thomas also discloses determining a location of an announcement based on a special indication associated with a currently tuned television channel (see Column 9, Lines 11-17 for using the translation record information to discover that the URL can be found in transport stream T1 instead of T2 (see Column 8, Lines 55-65)).

Thomas also discloses processing the announcement of the currently tuned television channel (see Column 8, Lines 54-65 and Column 9, Lines 10-21 for processing the data in the translation field in order to find the proper URL on the proper transport stream).

Thomas fails to specifically disclose multiplexing the enhancement data onto the separate delivery mechanism (transport stream).

Field discloses a multiplexer 115 in Figure 2 that multiplexes enhancement data HTML page data (URLs) onto a broadcast signal (see Column 5, Lines 9-22).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the transmission system (Figure 9), as taught by Thomas, using the multiplexer 115, as taught by Field, for the purpose of providing programming services data, HTML page data and mapping table data on the same broadcast signal to be transmitted to viewers (see Column 5, Lines 15-17) in order to alleviate bandwidth congestion.

Claim 3 corresponds to claim 1, where Field discloses that one or more special indications are received on the separate delivery mechanism (see Column 5, Lines 9-22 for transmitting the mapping table to the receiver according to the MPEG standard,

which inherently breaks the table into PIDs that make up an elementary stream, which is separate from other elementary streams).

Claim 4 corresponds to claim 1, where Thomas discloses transmitting enhancement data in different transport streams (see Column 8, Lines 54-65) and that each transport stream contains video, audio and enhancement data (see Column 1, Lines 28-36). The examiner notes that the claimed limitation "data-only transport stream program" is broad. Video, Audio and an type of ancillary data are all subsets of "data", therefore the transport streams of Thomas are "data-only" transport streams.

Claim 5 corresponds to claim 1, where Thomas discloses sending the enhancement over a separate communications link (see Column 1, Lines 44-55 for sending HTML data in an elementary stream, which is inherently retrieved by a receiver using a specific PID). Again, the claim limitation "communications link" is broad and does not limit the claim to a separate physical network path.

Claim 6 corresponds to claim 1, where Thomas discloses receiving the announcements at a location different from the first location (see Column 5, Lines 9-22 for transmitting the mapping table to the receiver according to the MPEG standard, which inherently breaks the table into PIDs that make up an elementary stream, which is separate from other elementary streams). Therefore, the first and second locations are broad claim limitations and read on different elementary streams.

Referring to claim 15, see the rejection of claim 1. Also note that Thomas does not teach the internal components of the DTV receiver, therefore, although Thomas discloses receiving the audio/video content associated with a plurality of audio/video

programs over the transport medium and receiving the one or more special indication and ancillary information in the rejection of claim 1, Thomas fails to teach that a first and second device, within the DTV receiver of Thomas in Figure 12, can perform such functionality.

Field discloses a receiver 180, which contains a first device for receiving the AV programs (see DEMUX 205 in Figure 3) and a second device for receiving a mapping table, similar to that of the translation table (which contains the special indications and ancillary information) of Thomas (see Table Data Memory 209 in Figure 3). Field also teaches a controller (see Table Data Processor 207 in Figure 3), which locates the ancillary information associated with the tuned A/V program based on information in the special indicator (see Column 5, Lines 9-22 and 56-67 and Column 6, Lines 7-35).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the transmission system (Figure 9), as taught by Thomas, using the multiplexer 115, as taught by Field, for the purpose of providing a system, which only has one-way communication from the information provider to have the look and feel of a bi-directional Internet connection (see Column 1, Lines 13-15 of Field).

Claim 18 corresponds to claim 15, where various controllers in the receiver 180 control the Table Data Memory 209 and Demux 205. Therefore, the system would inherently contain software routines to control the first and second devices in order for them to receive and process the audio/video programs, mapping table data, and HTML page data properly.

4. Claims 2, 16-17 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Patent No. 6,502,243) in view of Field et al. (U.S. Patent No. 6,018,764) in further view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 2, Thomas and Field disclose all of the limitations in claim 1, but fails to disclose the use of the ATVEF standard.

The ATVEF standard teaches the use of HTML-enhanced television (also taught by Thomas and Field) and processing announcements (see Pages 1 and 2 of the specification).

At the time the invention was made, it would have been obvious to modify the HTML-enhanced television broadcast system, as taught by Thomas and Field, using the announcement processing system, as taught by the ATVEF specification, for the purpose of using a single public standard for delivering interactive television experiences that can be authored once using a variety of tools and deployed to a variety of set-top and PC-based receivers (see Page 2 of the ATVEF specification).

Referring to claim 16, see the rejection of claim 2.

Claim 17 corresponds to claim 16, where the ATVEF specification teaches that the first location includes an IP address and port at which announcements are expected to arrive (see the Announcements section on pages 5 and 6).

Referring to claim 29, see the rejection of claim 17.

5. Claims 9 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Patent No. 6,502,243) in view of the Advanced Television Enhancement Forum Specification (ATVEF).

Referring to claim 2, Thomas discloses all of the limitations in claim 1, but fails to disclose the use of the ATVEF standard.

The ATVEF standard teaches the use of HTML-enhanced television (also taught by Thomas and Field) and processing announcements (see Pages 1 and 2 of the specification).

At the time the invention was made, it would have been obvious to modify the HTML-enhanced television broadcast system, as taught by Thomas, using the announcement processing system, as taught by the ATVEF specification, for the purpose of using a single public standard for delivering interactive television experiences that can be authored once using a variety of tools and deployed to a variety of set-top and PC-based receivers (see Page 2 of the ATVEF specification).

Referring to claim 13, see the rejection of claim 2.

Claim 14 corresponds to claim 13, where the ATVEF specification teaches that the first location includes an IP address and port at which announcements are expected to arrive (see the Announcements section on pages 5 and 6).

***Allowable Subject Matter***

6. Claims 7 and 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Referring to claims 7, the prior art of record fails to anticipate or rendered obvious the combined elements/steps including, "receiving the announcements at an Internet Protocol address and port different from an expected announcement Internet Protocol address and port", as recited in the claims.

Referring to claim 24, the prior art of record fails to anticipate or rendered obvious the combined elements/steps including, "wherein the first location comprises a first network address and port, the method further comprising receiving the announcements at a second network address and port different from the first network address and port", as recited in the claims.

Referring to claim 25, the prior art of record fails to anticipate or rendered obvious the combined elements/steps including, "wherein receiving the one or more special indications at the first location comprises receiving the one or more special indications at a network address and port", as recited in the claims.

Referring to claim 26, the prior art of record fails to anticipate or rendered obvious the combined elements/steps including, "wherein the first location comprises a first network address and port and the second location comprises a second, different network address and port", as recited in the claims.

Referring to claim 27, the prior art of record fails to anticipate or rendered obvious the combined elements/steps including, "wherein receiving the predetermined indication at the first location comprises receiving the predetermined indication at a first network address and port, and wherein identifying the location of the announcement comprises identifying a second, different network address and port", as recited in the claims.

Referring to claim 28, the prior art of record fails to anticipate or rendered obvious the combined elements/steps including, "wherein transmitting the predetermined indication to the first location comprises transmitting the predetermined indication to a first network address and port", as recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

In regards to claims 7 and 24-28, only the ATVEF specifies receiving an announcement at a specific Internet Protocol address and port, but only for the currently tuned television channel. Therefore, by using a different IP address and port (which is not supported by the ATVEF specification) to receive announcements, additional data for the currently tuned TV program can be accessed from additional television channels. Furthermore, the ATVEF specification only teaches receiving announcements at an IP address and port, not the special indication/predetermined indications, which direct a

receiver to other channels to receive announcements related to the currently tuned television channel.

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce  
Patent Examiner  
Art Unit 2611

April 18, 2005

  
CHRIS GRANT  
PRIMARY EXAMINER